

complainant is not entitled to the relief he prays for, because "he does not allege in his bill, or prove by the evidence, that Edward Parks died seized of any lands or real estate in Somerset county, or elsewhere."

This objection rests upon the assumption that a creditor's bill cannot be sustained when the personal estate of the debtor is not sufficient to pay his debts, for the sale of his real estate, unless it appears by the pleadings and proofs that the debtor was actually and in deed seized of the land sought to be sold.

If this objection is a good one, it would follow, as a necessary consequence, that the creditors of a person owning the remainder or reversion expectant upon the determination of a freehold estate, which person dies during the continuance of the particular estate, could have no recourse to the estate held in remainder or reversion, because, under such circumstances, the party entitled in remainder or reversion could not be said to be seized.

The intervention of the estate of freehold, between the possession and remainder, prevents the owner of the latter from being seized, and, in the case of real estate claimed by descent, would prevent the remainder-man from becoming the stock of inheritance: the rule of the common law being, that the ancestor from whom the inheritance was taken by descent, must have had actual seizin or seizin in deed, and that the intervention of an estate of freehold prevents such seizin. 4 *Kent's Com.*, 385, *et seq.*

When, to be sure, the estate is acquired by purchase, the ancestor may transmit it to his heirs without having had actual seizin; but still, if the objection now under consideration is a good one, such estate would not be answerable for the debts of the ancestor, because he could not be said to have died *seized* of the land.

The bill in this case alleges that Edward Parks, the deceased debtor, "was in his lifetime seized of certain real estate, situate in Somerset county, devised to him by his father, William Parks, subject to the life estate therein devised to his mother, Sally Parks," as appears by a copy of the will, which is ex-